

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA
Plaintiff,

v.

Case No. 08-CR-200

KENARD MATHIS
Defendant.

ORDER

On January 30, 2009, I sentenced defendant Kenard Mathis to 37 months in prison, running concurrent with a state sentence (R. 13), and the United States Marshal subsequently filed a detainer with state authorities (R. 16). Defendant now moves to dismiss the detainer. He indicates that because state authorities denied him parole the state sentence will exceed the federal sentence, making a detainer unnecessary. (R. 19.) He also notes that the detainer interferes with his programming and placement in state prison. (R. 17, 18.)

Federal detainers are issued by the United States Marshall and merely request that state prison officials notify the Marshall of a prisoner's release date so that federal authorities may be present on that day to take custody of the prisoner. There is nothing about a federal detainer that has any legal effect on the decision of state authorities to place a state prisoner in one or another state program. United States v. Dovalina, 711 F.2d 737, 740 (5th Cir. 1983). Defendant cites no authority allowing a prisoner to challenge a detainer in federal court under these circumstances, and I have found none. See Miranda v. U.S. Marshal, No. 09-80435, 2009 WL 2914421 (S.D. Fla. Sept. 9, 2009). Further, so long as the federal sentence remains extant, the Marshall is obligated to ensure that it may be carried out if defendant is released

by the state.

THEREFORE, IT IS ORDERED that defendant's motion (R. 19) is **DISMISSED**.

Dated at Milwaukee, Wisconsin, this 10th day of March, 2010.

/s Lynn Adelman

LYNN ADELMAN
District Judge